IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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JUDGMENT

LRs. Of Hanuman Das.
vs.
Manak Chand and another.

S.B.CIVIL SECOND APPEAL NO.43/2002 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 18.10.2001 PASSED BY SHRI B.M. GUPTA, ADDITIONAL DISTRICT JUDGE NO.2, BIKANER IN CIVIL APPEAL DECREE NO.13/1996.

DATE OF JUDGMENT ::: 12.1.2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. MC Bhoot, for the appellant.

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BY THE COURT:

Heard learned counsel for the appellant/plaintiff.

The trial court decreed the suit of the plaintiff vide judgment and decree dated 3.4.1996 after holding that the wall in between two houses of plaintiff and defendants is a wall of the plaintiff.

The defendants preferred appeal against the judgment and decree dated 3.4.1996 of the trial court. The appellate court allowed the appeal of the present defendant vide its judgment and decree dated 18.10.2001 and dismissed the suit. The first appellate court held that since the house in dispute was purchased by the plaintiff and in the patta of the house in dispute – Ex.1 itself, it is mentioned that the patta has been granted for the house with half of wall, therefore, total width of wall is not proved to be of the plaintiff.

Hence, this second appeal by the appellant/plaintiff.

Learned counsel for the appellant tried to submit that the first appellate court committed illegality in interpreting the patta Ex.1.

After going through the patta and quoted by the first appellate court, I do not find that the first appellate court has misread the document Ex.1.

In view of the above, no substantial question of law is involved in this appeal. Accordingly, this appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya